

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION**

FRANK D. KELLEY,

Petitioner,

v.

WARDEN JEFFRY FIKES,

Respondent.

CIVIL ACTION NO.: 2:23-cv-11

ORDER

Petitioner, who is presently incarcerated at the Federal Correctional Institution in Jesup, Georgia, filed this 28 U.S.C. § 2241. Doc. 1. The record reflects Petitioner has paid the \$5.00 filing fee.

The Court directs the United States Marshal to serve a copy of the Petition, doc. 1, and a copy of this Order by registered or certified mail upon: (1) the Attorney General of the United States; (2) the named Respondent; and (3) the civil process clerk at the office of the United States Attorney for the Southern District of Georgia. See Fed. R. Civ. P. 4(i).

The Court orders Respondent to show cause, in writing, why Petitioner's writ should not be granted by filing an Answer within **21 days** of service of the Petition. See Rule 5 of the Rules Governing Section 2254 Petitions.¹ **If Respondent seeks dismissal or denial of the Petition, Respondent should file, in lieu of an answer, a motion to dismiss or deny the Petition.** Grounds for a motion to dismiss include, but are not limited to: failure to exhaust available remedies, untimeliness, failure to state a cognizable claim, procedural default, second or

¹ The Rules Governing Section 2254 Cases may also apply to habeas actions brought under Section 2241. Rule 1(b) of the Rules Governing Section 2254 Cases.

successive petition bar, absence of custody at the time the petition was filed, mootness, ripeness, and failure to name the proper respondent. Respondent must attach complete copies of all files and records cited in support of a motion to dismiss as exhibits to the motion to dismiss. If Respondent moves to dismiss and the motion is denied, Respondent must file an answer which complies with Rule 5 within 21 days of denial of the motion to dismiss. The Court **DIRECTS** the Clerk of Court to serve a courtesy copy of this Order on the United States Attorney for the Southern District of Georgia.

Petitioner is cautioned, while this action is pending, he shall immediately inform this Court in writing of any change of address. Failure to do so will result in dismissal of this case.

SO ORDERED, this 8th day of February, 2023.

A handwritten signature in blue ink, appearing to read 'B. Cheesbro', is written over a horizontal line.

BENJAMIN W. CHEESBRO
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF GEORGIA